

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Daniel M. Lafontaine	Art Unit :	3739
Serial No. :	10/786,322	Examiner :	Peter J. Vrettakos
Filed :	February 25, 2004	Conf. No. :	2641
Title :	CRYO-TEMPERATURE MONITORING		

Mail Stop Amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the action mailed January 9, 2007, Applicant elects the invention of Group I, claims 43-44, 46-47, 49-50, 52 and 54, without traverse. In response to the examiner's question stated in the action, Applicant notes that a optical sensor is a device that senses a parameter such as temperature optically and provides a signal (e.g., a voltage) relating to such sensing, while an optical imaging apparatus is an apparatus that forms an image of a target location; an imaging apparatus may monitor temperature, for example by producing an image of the target location and then providing that image to an optical sensor. (In certain implementations, the apparatus could also include the optical sensor.)

In response to the Office's citation of MPEP sections for the apparent propositions that changes in size and shape, and integration of separate objects do not make for patentable distinctions, Applicant notes that both points are fact-specific applications from case law, and neither point is a rule. Rather, while it may be true that changes in size alone or mere integration, without any change in the manner in which a device performs, would not be patentable, that is not the case here. Specifically, the claimed device, because it is configured and sized for vascular introduction, performs by being able to be strong through a length of vasculature, while the prior art Johnson device must depend on gravity for its proper operation and also could not possibly be used for typical vascular activities. Moreover, the integration and proper arrangement of the portions of the claimed device is not a mere obvious combination of parts, but is a fundamental difference over the Johnson device that permits for such successful vascular introduction. As a result, Applicant respectfully submits that the cited MPEP provisions

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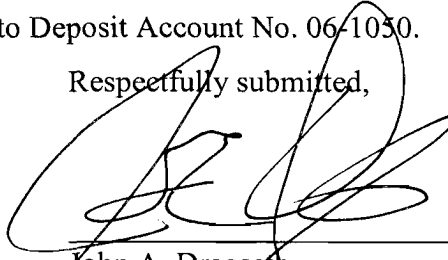
and the cases referenced in those provisions do not control the disposition of the currently-pending claims.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: _____

2/9/07



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